

In general, the imposition of the various local sales taxes in Illinois takes effect when “selling” occurs in a jurisdiction imposing a tax. See 86 Ill. Adm. Code 270.115(b). (This is a GIL.)

January 14, 2005

Dear Xxxxx:

This letter is in response to your letter dated January 22, 2004, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings (“PLRs”) are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department’s regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter (“GIL”) is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at [www.ILTAX.com](http://www.ILTAX.com) to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

This letter is to decide if ABC should collect Use Tax as determined by the Illinois Department of Revenue. The Sales Tax Division determined that we are a voluntary Use Tax collector however, we are currently collecting tax at the Sale Tax rate and remitting the excess amount on line 22 of the ST-1 return.

In the State of Illinois we have seven sales people who work out of their homes' and service the sales in that state for ABC. There are no ABC office or plants. Before we change our system we would like to determine whether we should continue to collect the Sales Tax at the higher rate or the Use Tax at a rate of 6.25%. There is some confusion as to whether we should collect Sales Tax or Use Tax, this is not an issue we want during an audit.

Please clarify what tax we should be collecting and at what rate. If you have any questions feel free to contact me.

#### **DEPARTMENT’S RESPONSE:**

An “Illinois Retailer” is one who either accepts purchase orders in the State of Illinois or maintains an inventory in Illinois and fills Illinois orders from that inventory. The Illinois Retailer is then liable for Retailers’ Occupation Tax on gross receipts from sales and must collect the

corresponding Use Tax incurred by the purchasers. In general, the imposition of the various local occupation taxes in Illinois takes effect when “selling” occurs in a jurisdiction imposing a tax. See, for example, 86 Ill. Adm. Code 270.115(b).

Another type of retailer is the retailer maintaining a place of business in Illinois. The definition of a “retailer maintaining a place of business in Illinois” is described in 86 Ill. Adm. Code 150.201(i). This type of retailer is required to register with the State as an Illinois Use Tax collector. See 86 Ill. Adm. Code 150.801. The retailer must collect and remit Use Tax to the State on behalf of the retailer’s Illinois customers even though the retailer does not incur any Retailers' Occupation Tax liability.

I hope this information is helpful. If you require additional information, please visit our website at [www.ILTAX.com](http://www.ILTAX.com) or contact the Department’s Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Edwin E. Boggess  
Associate Counsel

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